

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

THE UNITED STATES OF PLAINIFF  
AMERICA

VS. 3:16-CV-622-CWR-FKB

THE STATE OF DEFENDANT  
MISSISSIPPI

\*\*\*\*\*

DEPOSITION OF BRENT HURLEY

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Taken at the instance of the Plaintiff at the  
offices of United States Attorney's Office for the  
Southern District of Mississippi, 501 East Court  
Street, Suite 4.430, Jackson, Mississippi 39201,  
Mississippi, on April 26, 2018, beginning at  
approximately 9:20 a.m.

(APPEARANCES NOTED HEREIN)

\* \* \* \* \*

Reported by:

Julie Brown, CCR 1587

<p style="text-align: right;">Page 82</p> <p>1 certified. There are some counties that can't meet</p> <p>2 the certification in their jail because the jails</p> <p>3 are outdated. And they are not free from</p> <p>4 impediments that can let them harm themselves. And</p> <p>5 so there was a discussion of trying to get counties</p> <p>6 to contract with counties that could meet the</p> <p>7 requirements that had newer jails. They had safer</p> <p>8 jails. So there is a possibility that Lafayette</p> <p>9 County can contract, but we don't regulate that.</p> <p>10 Q. How many -- do you know how many beds</p> <p>11 each of these four holding facilities has?</p> <p>12 A. I can't tell you off the top of my head.</p> <p>13 Q. And what service -- what mental health</p> <p>14 services would an individual receive while being</p> <p>15 held in a designated holding facility?</p> <p>16 A. The only mental health services that they</p> <p>17 would receive is that they would be evaluated by a</p> <p>18 physician or a nurse when they got there. That's</p> <p>19 part of the standards. And if they stayed there for</p> <p>20 longer than 72 hours, they would be evaluated again</p> <p>21 by a physician or a nurse practitioner.</p> <p>22 Q. Could the physician or nurse practitioner</p> <p>23 prescribe medication?</p> <p>24 A. I guess they could if they wanted to.</p> <p>25 Q. Would that be administered while the</p>	<p style="text-align: right;">Page 84</p> <p>1 response team staff gets there.</p> <p>2 Q. So if the mobile crisis team gets a phone</p> <p>3 call and determines that no face-to-face</p> <p>4 intervention is required, there's no -- no time</p> <p>5 limit applies to that particular call?</p> <p>6 A. Correct.</p> <p>7 Q. Now, how does DMH define an urban</p> <p>8 setting?</p> <p>9 A. I don't know that DMH defines an urban</p> <p>10 setting.</p> <p>11 Q. Does any state entity define urban and</p> <p>12 rural for purposes of this operational standard?</p> <p>13 A. I do not know.</p> <p>14 Q. How do you measure whether a mobile</p> <p>15 crisis team is meeting that requirement?</p> <p>16 A. I believe when the certification team</p> <p>17 goes out and reviews the call logs and they look at</p> <p>18 the time on the form that the mobile crisis response</p> <p>19 team fills out is how they determine that.</p> <p>20 Q. Okay. I hand you a document that's been</p> <p>21 previously marked as Exhibit 110.</p> <p>22 (Whereupon, Exhibit No. 110 marked for</p> <p>23 identification.)</p> <p>24 BY MR. SCHUTZER:</p> <p>25 Q. This is Department of Mental Health's</p>
<p style="text-align: right;">Page 83</p> <p>1 person was in jail?</p> <p>2 A. That depends on the -- the jail and the</p> <p>3 county.</p> <p>4 Q. Does DMH have a requirement in the</p> <p>5 operational standards to require designated holding</p> <p>6 facilities to provide the prescribed medications?</p> <p>7 A. No.</p> <p>8 Q. So a person could be actively psychotic,</p> <p>9 evaluated by a physician, prescribed an</p> <p>10 antipsychotic, but might not get that antipsychotic?</p> <p>11 A. That is a possibility.</p> <p>12 Q. Does DMH keep track if that ever happens?</p> <p>13 A. No, sir.</p> <p>14 Q. Does DMH have requirements about how long</p> <p>15 or how quickly a mobile crisis team needs to respond</p> <p>16 to a call?</p> <p>17 A. We do.</p> <p>18 Q. What are those standards?</p> <p>19 A. One hour in urban areas and two hours in</p> <p>20 rural areas.</p> <p>21 Q. What event starts that clock?</p> <p>22 A. I would assume the call.</p> <p>23 Q. And what event stops that clock?</p> <p>24 A. When the person arrives on the scene with</p> <p>25 the individual. When this -- when the mobile crisis</p>	<p style="text-align: right;">Page 85</p> <p>1 consolidated budget request for the fiscal year</p> <p>2 ending June 30, 2019. This page is 1, 106 through</p> <p>3 130 of this document. I have the full one here if</p> <p>4 you would like to look at it, but I think for our</p> <p>5 purposes we'll be fine. Do you see the page numbers</p> <p>6 I'm referring to when I talk about 1, 106 to 130?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Do you have any role in preparing</p> <p>9 DMH's budget submissions?</p> <p>10 A. No, sir.</p> <p>11 Q. Are you aware of the performance</p> <p>12 indicators and measures that are contained in the</p> <p>13 budget requests?</p> <p>14 A. I am not.</p> <p>15 Q. Turn to page 106. We'll take a look at</p> <p>16 some of those.</p> <p>17 I said 106, but I actually will be focusing</p> <p>18 on the ones on page 107 if you want to jump there.</p> <p>19 Just take a look and let me know when you've looked</p> <p>20 at this page.</p> <p>21 A. Okay.</p> <p>22 Q. Does any of this look familiar?</p> <p>23 A. The number of calls, the number of</p> <p>24 face-to-face visits is -- is familiar.</p> <p>25 Q. Okay. And those are data points that</p>

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<p>1 75 to 80 percent.</p> <p>2 Q. You would expect it to be 75 to</p> <p>3 80 percent of the number of face-to-face visits?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Other than this conversation that</p> <p>6 you and I are having right now, have you ever looked</p> <p>7 into these numbers to see if they are meeting your</p> <p>8 expectations?</p> <p>9 A. No, sir.</p> <p>10 Q. How did you get the information that you</p> <p>11 supplied for these outputs?</p> <p>12 A. I don't know that I actually supplied</p> <p>13 this information. Any information that I supplied</p> <p>14 to this report would have been drawn from the CDR</p> <p>15 for mobile crisis response teams.</p> <p>16 Q. Okay. Do you know what the column that's</p> <p>17 the middle column, the one that says "On track," do</p> <p>18 you know what that column is referring to?</p> <p>19 A. That column is referring to whether or</p> <p>20 not the plan -- the plan is -- has been achieved by</p> <p>21 midyear or if it's on track to be achieved.</p> <p>22 Q. And for something like the output number</p> <p>23 of face-to-face visits, do you know who makes the</p> <p>24 determination about whether it's on track or not?</p> <p>25 A. I don't.</p>	<p>1 Q. Okay.</p> <p>2 A. I don't know where this number came from.</p> <p>3 Q. Okay. Have you ever talked with mobile</p> <p>4 crisis teams about ways they could reduce their</p> <p>5 average cost per response?</p> <p>6 A. I have not.</p> <p>7 Q. Do you, sitting here right now, have</p> <p>8 thoughts on how a CMHC might accomplish that?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. Mobile crisis services are</p> <p>11 Medicaid reimbursable; is that correct?</p> <p>12 A. I believe they are.</p> <p>13 Q. How -- do you know how a CMHC goes about</p> <p>14 receiving reimbursement through Medicaid for mobile</p> <p>15 crisis?</p> <p>16 A. I do not.</p> <p>17 Q. Are you familiar with Medicaid's</p> <p>18 regulations about mobile crisis services?</p> <p>19 A. I am not.</p> <p>20 Q. Are you familiar with any requirements</p> <p>21 for prior authorization for mobile crisis services?</p> <p>22 A. No, sir.</p> <p>23 Q. You're aware of requirements for prior</p> <p>24 authorization for crisis stabilization units?</p> <p>25 A. I've gotten some questions from the CSU</p>
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<p>1 Q. Did you make that decision?</p> <p>2 A. I did not.</p> <p>3 Q. Okay. Do you know what would cause, for</p> <p>4 example, the output number of contact/calls to be on</p> <p>5 or off track?</p> <p>6 A. I -- I don't know specifically, no.</p> <p>7 Q. Okay. If you could turn back to</p> <p>8 Exhibit 110, which is the consolidated budget</p> <p>9 requests. If you look in the -- where it's --</p> <p>10 actually, still on page 107. In the middle of the</p> <p>11 page there are listed some program efficiencies.</p> <p>12 A. Uh-huh (affirmative response).</p> <p>13 Q. And Program Efficiency Number 4 is, "The</p> <p>14 average cost per response by mobile crisis response</p> <p>15 teams."</p> <p>16 Do you -- is the average cost per response</p> <p>17 by mobile crisis team something that you keep track</p> <p>18 of?</p> <p>19 A. No, sir.</p> <p>20 Q. Is that information that's reported by</p> <p>21 the mobile crisis teams in their monthly reports?</p> <p>22 A. I have no idea.</p> <p>23 Q. Do you know where --</p> <p>24 A. I'm sorry. It doesn't come in the</p> <p>25 reports that they send me.</p>	<p>1 directors about prior authorizations, but I'm not</p> <p>2 really familiar with how that -- how they work.</p> <p>3 Q. Okay. Do you know if mobile crisis teams</p> <p>4 carry or follow -- yeah, follow up on clients who</p> <p>5 call the team?</p> <p>6 A. I assume they do. I don't know for sure</p> <p>7 that they follow up on every client. I think it</p> <p>8 would be a case-by-case basis.</p> <p>9 Q. Do you know if there are any teams that</p> <p>10 have something like a caseload of people they follow</p> <p>11 on a regular basis?</p> <p>12 A. I don't know that specifically.</p> <p>13 Q. Okay. Do you know if there are any CMHCs</p> <p>14 that use their mobile crisis teams to provide</p> <p>15 services other than crisis services?</p> <p>16 A. I recall being told by some mental health</p> <p>17 centers that if someone were to get out of the</p> <p>18 hospital and it was going to be a while before they</p> <p>19 could get in to see a physician, that the mobile</p> <p>20 crisis teams would go out and check on the</p> <p>21 individual.</p> <p>22 Q. And is that an approved use of mobile</p> <p>23 crisis grant funding?</p> <p>24 A. I think that if it keeps an individual in</p> <p>25 the community and not going back to the state</p>

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<p>1 A. I do not.</p> <p>2 Q. Why not?</p> <p>3 A. I think the jails should provide the</p> <p>4 services at the county level.</p> <p>5 Q. Why is that a service that should be</p> <p>6 provided by the jails instead of the CMHCs?</p> <p>7 A. Because every county's got a different</p> <p>8 sheriff and every sheriff does everything -- does</p> <p>9 things differently. And the community mental health</p> <p>10 centers truly don't get enough funding to provide</p> <p>11 extra services that they are not already providing.</p> <p>12 Now, some community health centers work very closely</p> <p>13 with their jails I -- I believe, but it just depends</p> <p>14 on the county, depends on the sheriff, and the</p> <p>15 mental health center.</p> <p>16 Q. Could DMH provide funding to CMHCs so</p> <p>17 that they could afford to provide services to</p> <p>18 individuals in jails?</p> <p>19 A. If the legislature would give us the</p> <p>20 money we could.</p> <p>21 Q. Has DMH asked for that money?</p> <p>22 A. I don't know.</p> <p>23 Q. Who would know?</p> <p>24 A. Ms. Mikula.</p> <p>25 Q. Is there anyone other than Ms. Mikula who</p>	<p>1 A. He was male.</p> <p>2 Q. Okay. Beyond that, do you remember who</p> <p>3 it was?</p> <p>4 A. I do not.</p> <p>5 Q. Okay. At the bottom of the page 1 of</p> <p>6 Exhibit 147 states, "The group felt like it is wrong</p> <p>7 for a person to ever have to wait in a jail for an</p> <p>8 inpatient bed, that we need more CSUs."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. Okay. Did you agree that it was wrong</p> <p>12 for a person to ever have to wait in a jail for an</p> <p>13 inpatient bed?</p> <p>14 A. I do agree with that.</p> <p>15 Q. Why is that wrong?</p> <p>16 A. Because they should be receiving</p> <p>17 treatment, not be locked in a jail cell.</p> <p>18 Q. Does that still happen in Mississippi?</p> <p>19 A. It does.</p> <p>20 Q. How frequently does that happen?</p> <p>21 A. I couldn't answer.</p> <p>22 Q. Is there anyone at DMH who would know the</p> <p>23 answer to that question?</p> <p>24 A. No, sir.</p> <p>25 Q. Does DMH track whether people spend time</p>
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<p>1 would know?</p> <p>2 A. Not that I know of.</p> <p>3 Q. Other than the current work you're doing</p> <p>4 on the Attorney General's task force, have you been</p> <p>5 involved in anything related to reinstating Medicaid</p> <p>6 benefits for individuals who are released from</p> <p>7 incarceration?</p> <p>8 A. I made a call to the Department of</p> <p>9 Medicaid some years ago. I can't remember who I</p> <p>10 spoke to. And asked what the possibility of us</p> <p>11 getting benefits reinstated to people who were</p> <p>12 all -- who were previously eligible before they were</p> <p>13 incarcerated. If we knew their release date, if we</p> <p>14 could set up a system to ensure that their benefits</p> <p>15 were turned back on the day after they got -- that</p> <p>16 they were released. And I was -- the individual I</p> <p>17 spoke to said "no."</p> <p>18 Q. Did the individual you spoke to say why</p> <p>19 that would not be possible?</p> <p>20 A. Uh-uh (negative response).</p> <p>21 Q. Did you ask?</p> <p>22 A. I asked. He said, "It ain't going to</p> <p>23 happen."</p> <p>24 Q. Do you definitely recall that the person</p> <p>25 you called was male?</p>	<p>1 in a jail between -- before being placed in an</p> <p>2 inpatient bed?</p> <p>3 A. The CSUs track the people that come to</p> <p>4 them, if they can get the information, and I'm not</p> <p>5 sure they can always get that information. They try</p> <p>6 to track how many days an individual had to stay in</p> <p>7 a jail before they came to the CSU. Whether or not</p> <p>8 the state facilities are tracking that, I don't</p> <p>9 know.</p> <p>10 Q. Do those CSUs -- are the CSUs sometimes</p> <p>11 unable to get information about where a person came</p> <p>12 from before arriving at the CSU?</p> <p>13 A. I would be speculating if I gave you an</p> <p>14 answer on that.</p> <p>15 MR. SCHUTZER: Can you read back?</p> <p>16 (Record read back as requested).</p> <p>17 BY MR. SCHUTZER:</p> <p>18 Q. Why are you not sure whether the CSUs can</p> <p>19 get the information?</p> <p>20 A. I don't know that they can always get the</p> <p>21 information from a deputy bringing an individual if</p> <p>22 the deputy even knows how long the individual has</p> <p>23 been staying. I'm not sure where they are getting</p> <p>24 their information from.</p> <p>25 Q. So the CSUs are able to know whether</p>